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SFCA-CP

4 APR 2003

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Contract Policy Support (CPS) Policy Update 2003-04, Waivers Of Cost Accounting Standards - INFORMATION MEMORANDUM

This memorandum is in response to the Director of Defense Procurement and Acquisition Policy (DPAP) memorandum dated January 31, 2003, subject "Waivers of Cost Accounting Standards."

The Director of DPAP memorandum highlights Cost Accounting Standards (CAS) waiver authority limitations as a result of Section 817 of the National Defense Authorization Act for FY2003 (Public Law 107-314) (enclosure). Section 817 established three criteria that have to be met in order for an exceptional circumstances waiver to be granted. The Defense Acquisition Regulation (DAR) Council is currently drafting revised DFARS language to reflect these new requirements. As requested by the Deputy Director of DPAP, this CPS Policy Update 2003-04 and DPAP memorandum are posted on the ACA website under the Reference Library's CPS Policy Updates – CPS 2003-04.

If you have any questions regarding this matter, please contact, Anne Stevens at commercial (703) 604-9292, DSN: 761-9292 or e-mail, [anne.stevens@us.army.mil](mailto:anne.stevens@us.army.mil).

Robert Friedrich  
Acting, Director of Contract Policy and Support  
Army Contracting Agency

Enclosure

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31 JAN 2003

DPAP/P

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES

ACTING DEPUTY ASSISTANT SECRETARY OF THE ARMY  
(POLICY AND PROCUREMENT), ASA(ALT)  
DEPUTY ASSISTANT SECRETARY OF THE NAVY  
(ACQUISITION MANAGEMENT), ASN(RDA)  
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE  
(CONTRACTING), SAF/AQC  
EXECUTIVE DIRECTOR, ACQUISITION, TECHNOLOGY,  
AND SUPPLY DIRECTORATE (DLA)

SUBJECT: Waivers of Cost Accounting Standards

FAR 30.201-5, Waiver, provides for the head of an executive agency to waive the applicability of the Cost Accounting Standards (CAS) for a particular contract or subcontract under exceptional circumstances. This authority was provided to executive agencies in the National Defense Authorization Act for Fiscal Year 2000. Defense Authorization Act for fiscal year 2003 provides some significant limitations on the use of this authority.

In accordance with the provisions of section 817 of the National Defense Authorization Act for Fiscal Year 2003, this exceptional circumstances authority applies only when a determination is made that:

1. The property or services cannot reasonably be obtained under the contract, subcontract, or modification, as the case may be, without the granting the waiver;
2. The price can be determined to be fair and reasonable without the application of the cost accounting standards; and
3. There are demonstrated benefits to granting the waiver.

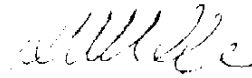
Thus, effective immediately, executive agencies may authorize CAS waivers only when a determination is made that the three circumstances delineated above exist. The



Defense Acquisition Regulatory Council is currently drafting revised DFARS language to reflect these new requirements.

It is important to note that DoD is not precluded from requesting waivers of CAS from the CAS Board for circumstances that do not meet the aforementioned three requirements. Such waivers, if needed, should be processed in accordance with the requirements at 48 CFR 9903.201-5(e).

If you have any questions regarding this memorandum, please contact Mr. David J. Capitano, Senior Procurement Analyst, at 703-602-4245.

A handwritten signature in black ink, appearing to read 'D. Lee', with a stylized flourish at the end.

Deidre A. Lee  
Director, Defense Procurement  
and Acquisition Policy